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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,379	04/14/2004	Hitoshi Hasegawa	P/3541-58	8460

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EXAMINER	
CHORBAJI, MONZER R	

ART UNIT	PAPER NUMBER
1797	

MAIL DATE	DELIVERY MODE
10/17/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/825,379	HASEGAWA ET AL.	
	Examiner	Art Unit	
	MONZER R. CHORBAJI	1797	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *16 July 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *13-19* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *13-19* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *14 April 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *5/22/08*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

This final action is in response to the amendment received on 7/16/08

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 13 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In lines 2-3 of claim 13; Applicant states, "which item sterilize the item to sterilized". The examiner is unable to understand the meaning of this phrase. Is Applicant trying to describe elements which sterilize the item to be sterilized with steam? See lines 2-3 of independent claim 14. Correction is required.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 13-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over McPhail (WO 00/59553) in view of Helmut (English Translation of DE 19724133) and further in view of McNamara (U.S.P.N. 2,214,425).

Regarding claim 13, McPhail discloses a sterilization apparatus (see the apparatus in figure 1) comprising: a chamber (figure 1:4) configured to contain an item (considered the medical and dental instruments to be sterilized as mentioned on page 1) to be sterilized and having elements (figure 8:112, 120, 6, and 28) which sterilize the item to be sterilized with steam (page 2, second paragraph), at high temperature and high pressure; an opening/closing mechanism (figure 1:6, 8, and the hinge structure described in the second paragraph on page 3); a moving element (door 6 that is moved between a

vertical and horizontal positions) having a tray (considered door's inner surface 8) configured for placement therein of the item (medical and dental instruments that are placed within cassette 28) to be sterilized; a fluid supply member (figure 8, 126 and 128) configured to supply fluid for cooling the item; and the moving element (door 6) being movable back and forth between a vertical position next of the chamber (4) and an outside position (being horizontal) of the chamber (4). In addition, McPhail discloses a sterilization apparatus (figure 1) having a control member (page 10, lines 8-9) and cooling mechanism (figure 8:128) such that he device of McPhail is computer controlled in all other aspects and it would have been obvious to one having ordinary skill in the art to provide computer control of the door to prevent premature or unsafe opening of the sterilizer.

McPhail fails to teach the following: moving element for moving the tray inside of the chamber; moving mechanism to move the moving element, with the item to be sterilized on the tray thereof, to the inside of the chamber for sterilization treatment with the steam at high temperature and high pressure and the moving mechanism, after the sterilization treatment, configured to open the chamber and move the moving element, with the sterilized item, to the outside of the chamber; and the fluid supply member configured to cool the sterilized item with cooling fluid outside of the chamber.

Helmut discloses a compact steam sterilizer containing an opening/closing mechanism which facilitates easy loading and unloading of a sterilization container by having a moving element (figure 2:21, 22, 11, and 23) for moving the container inside and outside of the chamber (figure 2:1) upon opening and

closing of the door (figure 2:11).This mechanism for opening/closing the cover (figure 1:3) for a steam sterilization vessel (figure 1:13), is essential to the compact sterilizer since, with such arrangement, the sterilization apparatus is able to placed onto existing laboratory furniture (Description section, page one, lines 10-11). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the apparatus in McPhail with an opening/closing mechanism as taught by Helmut, since with such arrangement the sterilization apparatus is able to placed onto laboratory furniture as described by Helmut (Description section, page one, lines 10-11).

In addition, Helmut discloses flexible conduits (considered as the fluid supply member 19 as shown in figure 2) for supplying steam that are connected to the container as shown in figure 2. However, Helmut fails to teach supplying fluid outside of the chamber.

McNamara discloses an apparatus for warming and sterilizing items with steam (page 1, left column, lines 1-5) having drawers with branch pipes (figure 6:27 and 25) since a hinged door that slides provides a supporting member for articles when is in open position (first page, left column, lines 22-27). In addition, McNamara teaches that in certain embodiments, the valve means (figure 6:29) is omitted (page 2, left column, lines 57-59) for unit 2 of the cabinet. As such one of ordinary skill in the art would recognize that upon opening drawer (14 as shown in figure 2), steam flows through the perforations (unlabeled openings shown in figure 3) while the drawer is in open position to warm the items.

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the modified door in McPhail/Helmut with the fluid supplying branch pipes since a hinged door that slides provides a supporting member for articles when is in open position as explained by McNamara (first page, left column, lines 22-27).

Regarding claim 14, McPhail discloses a sterilization apparatus (see the apparatus in figure 1) comprising: a chamber (figure 1:4) configured to contain an item (considered the medical and dental instruments to be sterilized as mentioned on page 1) to be sterilized and having elements (figure 8:112, 120, 6, and 28) which sterilize the item to be sterilized with steam (page 2, second paragraph), at high temperature and high pressure; an opening/closing mechanism (figure 1:6, 8, and the hinge structure described in the second paragraph on page 3); a container (figure 3:28) having a containing section (unlabeled lower half of container 28 for storing medical and dental instruments), and having a fluid supply port (figure 8:28 and fitting 98) which supplies (figure 8:112 and 120) and discharges fluid (figure 8:122, 130, 92) to separately sterilize (figure 8:112 and 120) and cool (figure 8:128 and 126) the stored item; a moving element (door 6 that is moved between a vertical and horizontal positions) having a tray (considered door's inner surface 8) for placement therein of the container (28) with stored items for sterilization (medical and dental instruments that are placed within cassette 28), the moving element (door 6) being movable back and forth between a vertical position next of the chamber (4) and an outside position (being horizontal) of the chamber (4); and an air feed cooling element (figure

8:128 and page 17, second paragraph) configured to supply fluid for cooling the item. In addition, McPhail discloses a sterilization apparatus (figure 1) having a control member (page 10, lines 8-9) and cooling mechanism (figure 8:128) such that he device of McPhail is computer controlled in all other aspects and it would have been obvious to one having ordinary skill in the art to provide computer control of the door to prevent premature or unsafe opening of the sterilizer. McPhail further teaches that all the valves and pumps are controlled by computerize system (page 17, paragraph 4) such that air cooling valve (128) which supplies air and steam supplying valve (figure 8:84) are automatically controlled by the computerized system.

McPhail fails to teach the following: moving element for moving the tray inside of the chamber; moving mechanism to move the moving element, with the item to be sterilized on the tray thereof, to the inside of the chamber for sterilization treatment with the steam at high temperature and high pressure and the moving mechanism, after the sterilization treatment, configured to open the chamber and move the moving element, with the sterilized item, to the outside of the chamber; and the fluid supply member configured to cool the sterilized item with cooling fluid outside of the chamber.

Helmut discloses a compact steam sterilizer containing an opening/closing mechanism which facilitates easy loading and unloading of a sterilization container by having a moving element (figure 2:21, 22, 11, and 23) for moving the container inside and outside of the chamber (figure 2:1) upon opening and closing of the door (figure 2:11).This mechanism for opening/closing the cover

(figure 1:3) for a steam sterilization vessel (figure 1:13), is essential to the compact sterilizer since, with such arrangement, the sterilization apparatus is able to placed onto existing laboratory furniture (Description section, page one, lines 10-11). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the apparatus in McPhail with an opening/closing mechanism as taught by Helmut, since with such arrangement the sterilization apparatus is able to placed onto laboratory furniture as described by Helmut (Description section, page one, lines 10-11).

In addition, Helmut discloses flexible conduits (considered as the fluid supply member 19 as shown in figure 2) for supplying steam that are connected to the container as shown in figure 2. However, Helmut fails to teach supplying fluid outside of the chamber.

McNamara discloses an apparatus for warming and sterilizing items with steam (page 1, left column, lines 1-5) having drawers with branch pipes (figure 6:27 and 25) since a hinged door that slides provides a supporting member for articles when is in open position (first page, left column, lines 22-27). In addition, McNamara teaches that in certain embodiments, the valve means (figure 6:29) is omitted (page 2, left column, lines 57-59) for unit 2 of the cabinet. As such one of ordinary skill in the art would recognize that upon opening drawer (14 as shown in figure 2), steam flows through the perforations (unlabeled openings shown in figure 3) while the drawer is in open position to warm the items.

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the modified door in McPhail/Helmut with the fluid

supplying branch pipes since a hinged door that slides provides a supporting member for articles when is in open position as explained by McNamara (first page, left column, lines 22-27).

Regarding claim 15, McPhail teaches cooling the items within container (28) with cooling air (page 17, paragraph 2) inside chamber (4) without cooling the inside of the chamber. McPhail and Helmut fail to teach cooling the items outside the chamber. McNamara discloses an apparatus for warming and sterilizing items with steam (page 1, left column, lines 1-5) having drawers with branch pipes (figure 6:27 and 25) since a hinged door that slides provides a supporting member for articles when is in open position (first page, left column, lines 22-27). In addition, McNamara teaches that in certain embodiments, the valve means (figure 6:29) is omitted (page 2, left column, lines 57-59) for unit 2 of the cabinet. As such one of ordinary skill in the art would recognize that upon opening drawer (14 as shown in figure 2), steam flows through the perforations (unlabeled openings shown in figure 3) while the drawer is in open position (considered outside of the chamber) to warm the items. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the modified door in McPhail/Helmut with the fluid supplying branch pipes since a hinged door that slides provides a supporting member for articles when is in open position as explained by McNamara (first page, left column, lines 22-27).

With regard to dependent method claims 16-19, the combination of McPhail, Helmut, and McNamara as shown above in addressing independent apparatus claims 13-14 perform the recited steps of the method claims and the

combination meet the structural features of apparatus claims 13-14. See MPEP 2112.02.

Response to Arguments

7. Applicant's arguments based the newly added claims, see page 8, filed on 7/16/08, with respect to the rejection(s) of claim(s) 1-2 and 9-12 under McPhail and Helmut references have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of McNamara as shown above.

The newly applied McNamara reference discloses an apparatus for warming and sterilizing items with steam having drawers with branch pipes. In addition, McNamara teaches that in certain embodiments, the valve means is omitted for unit 2 of the cabinet. As such one of ordinary skill in the art would recognize that upon opening drawer, steam flows through the perforations) while the drawer is in open position outside the cabinet to warm the items.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

9. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the

advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MONZER R. CHORBAJI whose telephone number is (571)272-1271. The examiner can normally be reached on M-F 9:00-5:30.

11. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on (571) 272-1267. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

12. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. R. C./

/Jill Warden/
Supervisory Patent Examiner, Art Unit 1797